



City of Seattle

Gregory J. Nickels, Mayor

Department of Design, Construction and Land Use

D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

Application Number: 2201706 and 2301117
Applicant Name: Bob Horsley
Address of Proposal: 3501 and 3515 West Commodore Way

SUMMARY OF PROPOSED ACTION

Master Use Permit for future construction of a 142-foot long retaining wall, a 737-square foot residential deck, and an 840-square foot concrete sports court on a lot partially located within the Urban Residential (UR) shoreline environment.

The following Master Use Permit component is required:

Shoreline Substantial Development Permit – SMC 23.60.020.

SEPA DETERMINATION: ☒ Exempt¹ ☐ DNS ☐ MDNS ☐ EIS
 ☐ DNS with conditions
 ☐ DNS involving non-exempt grading or demolition or
 involving another agency with jurisdiction.

BACKGROUND DATA

Existing Conditions and Development in the Area

The subject site consists of two abutting parcels (3501 and 3515 West Commodore Way) located in the Magnolia neighborhood. The site is zoned Residential, Single-family 5000 (SF 5000) and is partially located within an Urban Residential (UR) shoreline environment. The shoreline boundary runs somewhat parallel to the front property line and is located no further than 20 feet south of the property line along West Commodore Way. Most of the site is located outside of the shoreline environment.

¹ The notice of application incorrectly indicated that the project required SEPA (State Environmental Policy Act) review per SMC Chapter 25.05. However, the project falls below SEPA review thresholds, and no SEPA review is required.

The site slopes steeply up from the West Commodore Way right-of-way, and is mapped almost entirely as steep slope, potential slide, and wildlife habitat conservation area Environmentally Critical Area (ECA). A partial ECA exemption was approved under Master Use Permit #2201706.

Two existing single-family residences are located on the subject site (addressed as 3501 and 3515 West Commodore Way). Development in the area consists primarily of single-family residences. Commodore Park is located approximately 250 feet northeast of the site, and Fort Lawton is located approximately 250 feet southwest of the site.

Proposal

This analysis and decision cover two related projects: Master Use Permit #2201706 (3515 West Commodore Way) and #2301117 (3501 West Commodore Way).

The applicant proposes to build an approximately 142-foot long retaining wall along the West Commodore Way frontage of both parcels. The retaining wall would be located within the UR shoreline environment approximately 12 inches behind the front property line and would vary between two and six feet in height. In addition, a retaining wall and guard rail up to two feet in height are proposed four feet behind the first retaining wall.

In addition, the applicant proposes an 840-square foot sports court that would straddle the shared property line between the two sites. Most of the sports court would be located at grade, but a small portion of the northeast corner would be cantilevered above grade. Other work would include construction of a 737-square foot deck and an additional parking area for three vehicles.

Most of the proposed work would occur beyond the 200-foot shoreline environment boundary.

Public Comment

No comments were received during the public comment period.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The subject property is located partially within the Urban Residential (UR) shoreline environment. The only work that is proposed within the shoreline environment is the future construction of a retaining wall up to six feet in height, several guard rails up to two feet in height, and the placement of a crushed rock pathway; all other proposed work would occur outside of the shoreline environment. Nevertheless, the proposal is subject to the Shoreline Goals and Policies of SMC 23.60.004 because the site is located within a shoreline environment and the cost of the project exceeds \$2,500.

Shoreline Substantial Development Permit

Per SMC 23.60.020 of Seattle Shoreline Master Program (SSMP), a shoreline substantial development permit must be obtained prior to the undertaking of any substantial development within a shoreline environment. SMC 23.60.030 includes criteria for evaluating a shoreline permit. A substantial development permit shall be issued only when the development proposed is consistent with:

- A. The policies and procedures of Chapter 90.58 RCW;
- B. The regulations of this Chapter; and
- C. The provisions of Chapter 173-27 WAC.

A. Policies and Procedures of Chapter 90.58 RCW

Revised Code of Washington (RCW) Chapter 90.58 is known as the Shoreline Management Act. It is the policy of the state to provide for the management of its shorelines by planning for and fostering all reasonable and appropriate uses. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary incidental rights. Permitted uses in the shorelines shall be designed and conducted in a manner to minimize, as much as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to act primarily in a supportive and review capacity, with an emphasis on insuring compliance with the policies and provisions of the Act. As a result of this Act, the City of Seattle and other jurisdictions with shorelines adopted a local shoreline master program, codified in the Seattle Municipal Code, Chapter 23.60. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions. As the following analysis will demonstrate, the subject proposal is consistent with the procedures outlined in RCW 90.58.

B. Regulations of Chapter 23.60: Shoreline District

Chapter 23.60 of the Seattle Municipal Code implements the City's Shoreline Master Program. In evaluating requests for shoreline substantial development permits, a proposed use must meet the approval criteria set forth in SMC 23.60.030 (cited above) and be consistent with the shoreline policies established in SMC 23.60.004. Development standards of the shoreline environment and underlying zone must be considered and a determination made of any special requirements. Required mitigation measures, if any, must be identified.

SMC 23.60.064 provides authority for issuance of Shoreline Substantial Development permits as necessary to carry out the spirit and purpose of and assure compliance with SMC Chapter 23.60 and RCW 90.58. The regulations of Section 23.60.064 require that the proposed use:

- 1) Is not prohibited in the shoreline environment and the underlying zoning district;
- 2) Conform to all applicable development standards of both the shoreline environment and underlying zoning; and
- 3) Satisfy the criteria of shoreline variance, conditional use, and/or special use permits if required.

In evaluating an application for development, the Director may attach to the permit any conditions necessary to carry out the spirit and purpose of, and assure compliance with, this chapter and the RCW regulations (Section 23.60.064 E).

As referenced, the site is partially located in the Urban Residential (UR) shoreline environment. Accordingly, the following development standards are applicable to the project:

SMC 23.60.152 – Development standards for all environments

These general standards apply to all uses in the shoreline environments. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity.

The proposal is consistent with these general standards for development within the shoreline area, thereby minimizing any adverse impact to the shoreline environment, to water quality, to the natural shoreline processes, and the surrounding land and water uses.

SMC 23.60.198 – Development standards for residences other than floating homes

SMC 23.60.198(D) requires that single-family residences meet the yard requirements of the underlying zone. No portion of either single-family residence would encroach into required yard areas within the UR shoreline environment. Furthermore, the proposed retaining wall and associated guard rails would not exceed the maximum height allowed for such encroachments into required SF5000 yard areas (SMC 23.44.014(D)(10)).

SMC 23.60.570-578 – Development standards for the UR environment

The subject lot is considered an upland lot as defined in SMC 23.60.924. Development standards for upland lots in the UR environment address height limits, lot coverage, view corridors, and public access with certain exceptions. The proposal meets the building height and lot coverage requirements for the UR shoreline environment. Furthermore, the requirements for creating view corridors and public access on upland lots do not apply to single-family residential uses.

C. The Provisions of Chapter 173-27 WAC

Washington Administrative Code (WAC) Chapter 173-14 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state's Department of Ecology (DOE). As the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of SMC Chapter 23.60 also results in consistency with WAC 173-27 and RCW 90.58.

Summary

In conclusion, the proposed retaining wall, guard rails, and pedestrian pathway within the Urban Residential (UR) shoreline environment would be consistent with SMC Chapter 23.60, also known as the Seattle Shoreline Master Program, and would conform to the specific standards for development in the UR shoreline environment. Conditions to minimize the project impacts pursuant to the Director's authority to impose conditions under SMC 23.60.064(E) are not required because adverse impacts to the shoreline are not anticipated to occur.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT

The Shoreline Substantial Development permit is **GRANTED.**

CONDITIONS – SHORELINE

None.

Signature: (signature on file) Date: September 4, 2003
Leslie Clark, AICP
Land Use Planner